



WISCONSIN LEGISLATIVE COUNCIL AMENDMENT MEMO

2001 Assembly Bill 601	Assembly Substitute Amendment 1
Memo published: January 17, 2002 Contact: Shaun P. Haas, Senior Staff Attorney (7-9025)	

2001 Assembly Bill 601 authorizes certain contiguous municipalities (any city, village or town other than a city or village that has a majority of its territory located in Milwaukee County) to jointly create a local park and recreation district (hereinafter, "park district") that is separate and distinct from, and independent of, the state and municipalities within its jurisdiction.

A park district may be created by one of two methods: (1) the governing bodies of two or more contiguous municipalities may adopt an enabling resolution that declares the need for establishing the park district and contains a detailed description of the boundaries of the proposed park district; or (2) a petition is circulated and signed by a number of qualified electors residing in two or more contiguous municipalities equal to at least 50% of the votes cast for governor in each municipality at the last gubernatorial election and a referendum to approve the creation of the park district is approved at the next succeeding spring election by voters in at least two contiguous municipalities.

Before a park district may be created, the governing bodies of each of the participating municipalities must reach an agreement that includes a number of components, including a method to provide a loan for initial operating funds for the park district and a method to transfer title of a municipality's park facilities to the park district. Before such an agreement may be entered into, the participating municipalities must select an arbitrator who is required to decide issues that are not resolved by the municipalities.

A park district is governed by a nine-member board of directors that is elected at-large at the spring election. Unless each of the governing bodies of the municipalities of which the park district is comprised agree to the contrary, the members of the board of directors of the park district are elected from separate geographic areas within the park district, the boundaries of which are prescribed by the governing bodies in an apportionment plan. If the bodies cannot agree on the plan, the boundaries are prescribed by the arbitrator. Although all of the electors of the park district may participate in the election of the members of the board of directors, if an apportionment plan is used, each member of the board of directors must, at the time of taking office, reside within the apportioned area for which he or

she is elected or appointed to fill in the event of a vacancy. The terms of the directors are three years, although the initial terms are staggered such that each 1/3 of the seats on the board are for terms of approximately one, two and three years.

In connection with park facilities, the powers of the park district board include: authority to acquire, develop, maintain, improve, operate, and manage the park facilities; authority to operate recreational facilities and programs; the authority to enter into contracts; authority to employ personnel; authority to impose an impact fee on developers for park facilities; authority to issue debt for capital improvements to park facilities; and authority to impose a sales tax and a use tax and levy a property tax, to carry out its functions. Before any tax imposed by a park district may take effect, the park district's action must be approved in a referendum. The park districts are also eligible for various conservation programs that are funded with stewardship moneys. These programs include the local park aids program and the urban green space program.

A park district may dissolve by action of the park district board, subject to payment of the park district's debts and fulfillment of its other contractual obligations. If a park district is dissolved, its property must be transferred to the municipalities within the park district's jurisdiction as determined by the board.

Regarding the authority of the park district to adopt a resolution to impose a sales tax and a use tax, the bill specifies a rate of 0.1% on the sale and use of tangible personal property and services in the park district, subject to approval by the electors of the park district at a referendum. The park district is authorized to use the tax revenue only for purposes related to park facilities.

Regarding the authority of a park district to levy property tax on property located in the park district, the bill requires the park district to lower the property tax levy by the amount of any sales tax and use tax imposed by the park district that was collected in a previous year.

The bill provides that income of the park district is exempt from the income tax and the park district's property is exempt from the property tax. Furthermore, property transferred to a park district is exempt from the real estate transfer fee and sales of tangible personal property or services to the park district are exempt from all state and local sales taxes and use taxes.

Assembly Substitute Amendment 1 makes the following changes in the bill (references are to pages and lines of the substitute amendment):

1. Eliminates the authority of a park district to impose a sales tax and a use tax.
2. Imposes a property tax mill rate cap of 1.4% on property tax levied by the park district. [p. 31, l. 4.]
3. Amends the definitions of "local purpose revenues" and "local purpose taxes" and creates the definition of "impact fees collected by a local park and recreation district that are attributed to the municipality" in the shared revenue statute [s. 79.03 (3) (b) 4., Stats.] to ensure that the shared revenue a municipality is entitled to under the shared revenue formula will not be adversely affected by participation in a park district. Including a proportionate share of the impact fees and property taxes collected by the park district in the definition of "local

purpose revenues” will ensure that a municipality receives the same shared revenue it received before transferring property to a district. [p. 26, ll. 9-25; p. 27, ll. 1-12.]

4. Revises the circulation dates for a petition to create a park district to conform to current spring election circulation dates (December 1 to the first Tuesday in January instead of December 31 to the third Tuesday in February). [p. 29, ll. 12-13.]
5. Eliminates the requirement that two or more municipalities must be contiguous to jointly create a park district.
6. Specifies that a municipality can be part of only one park district. [p. 35, l. 22.]
7. Requires any annexations of territory by a municipality participating in a park district to be automatically added to the territory of the park district. [p. 35, ll. 22-25; p. 36, ll. 1-15.]
8. Permits a municipality to opt out of a park district by the vote of a majority of the park district board or by adoption of a referendum held in the municipality seeking to opt out of the park district. If a municipality opts out of a park district, it must negotiate a settlement agreement to compensate the park district for park facilities that are located in the municipality, based on at least all of the following factors:
 - Current value of the park facilities that are transferred;
 - The amount of money or any other contribution made by the park district for the park facilities that are transferred; and
 - The amount of money or any other contribution made by the municipality for park facilities that are transferred.

If the municipality and the park district are unable to negotiate a settlement, the municipality and the park district must agree on selection of an arbitrator who shall decide the settlement amount. The municipality must comply with the decision of the arbitrator during any court challenge of the arbitrator’s decision. [p. 36, ll. 16-25; p. 37, ll. 1-25; p. 38, ll. 1-6.]

9. Contains several provisions relating to impact fees imposed on a developer pursuant to s. 66.0617, Stats.:
 - Clarifies that only a park district is allowed to impose an impact fee by resolution. That is, the current statute that authorizes a political subdivision to impose an impact fee only by ordinance is retained. [p. 22, ll. 21-24.]
 - Specifies that impact fees are payable “. . . no sooner than 90 days after final plat approval.” [p. 23, ll. 16-19.]
 - Requires a municipality participating in a park district to transfer to the park district any existing unspent impact fees designated for park facilities. [p. 25, ll. 3-9.]

10. Specifies that municipalities participating in a park district may not impose a fee, exaction, or land dedication for parks under ch. 236, Stats., after a park district is created.
11. Specifies that park districts must comply with local “smart growth” zoning plans adopted pursuant to s. 66.1001, Stats. [p. 39, ll. 4-5.]

Passage of Assembly Bill 601, as affected by Assembly Substitute Amendment 1, was recommended by the Assembly Committee on State and Local Finance (Select) on a vote of Ayes, 5; Noes, 2.

SPH:wu:jal;ksm